

**Amendments to the Drawings:**

The attached Replacement Sheets 1/6 through 6/6 of drawings replace the original sheets.

Figures 1-9 are free from erasures, alterations, overwriting, interlineations, folds and copy marks.

In figure 4, the sectional and/or sectional view references have been eliminated.

In drawing sheets 1/6 – 6/6 the sheet numbering formatting and size have been amended to comply with 37 CFR 1.84(t).

Applicants respectfully submit all changes in the specification, claims and drawings are supported in the original documents as filed and overcome the objections of the Examiner in the Office Action.

Attachments: Replacement Sheets

## REMARKS

### Remarks

#### In the drawings

The new drawings contain proper sectional views and/or sectional view references and a proper drawing sheet numbering. Sectional views are indicated by a broken line in the views from which the sections are taken.

#### In the specification

The suggested headlines have been inserted into the specification. In addition, a first paragraph under of the headline "cross-reference to related applications" has been inserted, indicating that this application is based on the International patent application PCT/EP2003/014675 that claims a priority right from the German application DE 10261232.3 dated December 20, 2002.

The title of the invention has been expanded to "Re-closable lid, in particular of a beverage can, having a rotatable opener tab with a closure attachment"

Further, the substitute specification pages are provided in this reply with 1 1/2 spaced lines.

#### In the claims

#### 35 USC Section 112

In the amended claim 1 the expression "reinforcing bead", see reference numeral 5 in figure 6, has been renamed into "reinforcing lateral bead" for

distinguishing it better from the "annular bead", see reference numeral 4 in the figure 6.

The features of claim 12 have been repeated in claim 11, creating the proper antecedent basis for the "bulge rib".

The expression "drinks can" has been substituted by "beverage can" throughout the specification and claims.

### 35 USC Section 103

Amended independent claims 1 and 20 comprise the additional features of former dependent claim 14, in particular the feature that a finger clearance in the form of a depression is formed into the lid plate on the side of the opening remote from the fastening stud as a convex extension of the annular bead, the finger clearance protruding beyond the covering collar of the gripping portion in the closure pivoted position of the opener tab.

Without compromising the function, the claimed invention allows keeping the entire mechanism for opening the beverage can very low and therefore keeping it below the upper rim flange 2 of the beverage can, as for instance demonstrated in the embodiments shown in figures 7 and 8.

In short, the function that is performed by the mechanism according to the present invention is to first open the beverage can by breaking out the breakout portion 13a, then pivoting the entire part comprising the opener tab 14 and closure attachment 31 by 180 degrees, and then re-closing the can by pressing the closure attachment into the opening 13b that has been created by breaking out the breakout portion 13a.

Since this kind of product according to the present invention is a mass-produced consumer product, simplicity of the product is a high priority, both as to the design for keeping the costs low, as well as to the simplicity of use for a very broad spectrum of users, for instance a wide age group, and cannot compromise safety, both as to preventing any injury like cuts or

finger nail damage by the mechanism, as well as to prevent unintended breaking out of the breakout part, particularly since some of the beverage cans might be under a pressure above ambient pressure prior to initial opening of the can by breaking out the breakout part. While it is generally comparatively easy to improve a handcrafted article that is produced in small series, it requires much more inventive activity to improve a mass-produced mechanism according to the present invention with high requirements on safety, ease of use, and extremely low costs. Keeping this in mind, the prior art has to be evaluated as to its relevancy for providing guidance for the solution claimed in independent claims 1 and 20:

Starting with Wilson, it teaches a container that allows forming an opening in the top and then reclosing and resealing that opening by selectively operating a tab. The tab comprises a grip rim 78 that protrudes both in the initially closed position of the can with the breakout portion still intact as well as in the reclosed position above the entire body of the container. In contrast to the invention as claimed, Wilson on purpose provides this grip rim 78 and lets it protrude above the can so that an easy gripping can be provided. In particular with regard to reopening the container after the reclosed position has been established, Wilson teaches in column 5, line 1 to line 12:

“To reopen the reclosed and resealed container C, for enabling access to and consumption of the remaining contents thereof, second end section 52 of tab 12 is disengaged from opening 22, as shown in FIG. 9. This may be effected by either pivoting upwardly second end section 52 of tab 12, or pivoting downwardly first end section 50 of tab 12, on surrounding section 56 of tab 12. The user may grip rim 78 of tab 12 for pivoting movement. Tab 12 is then rotated, on partially-detached sub-section 54, away from the reclosing and resealing position in FIG 7, towards the initial position in FIG. 1, exposing opening 22.”

This explains why Wilson does not teach any finger clearance in the form of a depression formed into the lid plate, namely since an entirely different

solution is proposed by Wilson, i.e. a grip rim protruding vertically beyond the entire container body.

The opinion expressed by the Examiner that Wilson would teach a finger clearance formed in the lid with regard to claim 14 in the paragraph bridging pages 9 and 10 is respectfully traversed. As figures 5 and 6 show, the lid is substantially even on the side of the opening, i.e. there is no depression at all, let alone one that would provide a finger clearance. Further, the above passage of the description in Wilson, column 5, line 1 to line 12, explains that "The user may grip rim 78 of tab 12 for pivoting movement." Further, it would also be non-obvious to provide a finger clearance in the design according to Wilson since it would be redundant as in contrast the grip rim 78 has been provided.

In contrast to the invention, Wilson does not teach any depression on the side of the opening, and not even any reinforcing bead around the opening, not even one that protrudes vertically above the lid as taught by Brown and will be discussed below.

Summarizing Wilson briefly, it provides a solution for the gripping problem of the tab, but an entirely different solution of a protruding gripping rim. This solution has some significant disadvantages, namely in that the entire mechanism is much higher and even protrudes beyond the entire body of the container. This is not an acceptable solution both as to safety, namely a risk of injury by the protruding gripping rim, as well as to inadvertent opening of the container by any force exerted by objects laterally abutting against the gripping rim, for instance in the course of transportation. In addition, the tab element of Wilson with a relatively deep bowl shape is relatively complex and requires a lot of material.

Brown neither provides a solution for the aforementioned problems, nor was it obvious to combine Brown with Wilson at all.

Brown teaches a bead around the opening, but NOT as the invention claims in form of a depression, but in form of a protrusion, as Fig. 11 clearly

shows in the lower left corner where this protrusion is partially shown in cross-section. In contrast to the invention, such a protrusion would block finger access, i.e. teach upright away from the invention.

Since Brown does not teach a reclosable can at all, the skilled person would not have considered Brown for a solution of the problems in Wilson that arise out of the re-closability. In other words, the tab part to be pivoted in a vertical plane is not suitable for being twisted by 180 degrees in a horizontal plane at all, and certainly has no re-closing function since this tab part is much smaller than the opening that is created by breaking out the break out part.

Last but not least, building the beads as depressions according to the invention serves the purpose that the part combining the opener tab 14 and closure attachment 31 can be twisted by 180 degrees without any obstructions by protruding reinforcing beads, so that the design according to Brown would also with regard to the 180 degree twisting aspect teach away from the invention since a 180 degree twisting motion would be obstructed by these protrusions according to Brown.

Starting from Wilson, for arriving at the design according to the present invention as claimed, the following steps were necessary, each one of which being non-obvious, and even more so in combination:

1. The non-obvious step had to be made that that generally other options for providing a grip than a vertically protruding grip rim are considered despite little space between the rim of the can and the reclosing closure attachment in the reclosed position.
2. The non-obvious step had to be made that a design according to Wilson could be provided with reinforcing beads at all despite the fact that the combined opener tab and closure attachment has to be rotated by 180 degrees.

3. For providing reinforcing beads, the non-obvious step to change the prior art teaching of protruding beads by beads in form of a depression has to be made, the shape in the form of depressions allowing unobstructed rotation in a horizontal plane by 180 degrees.

4. The non-obvious step to enlarge one of the depression-shaped reinforcing beads so that it extends beyond the closure attachment had to be made, i.e. the non-obvious step to combine a bead that is provided for an entirely different purpose - namely reinforcing - with the different function of providing a finger clearance.

5. After the non-obvious step of combining the reinforcement and finger grip function, the additional non-obvious step of providing the particularly claimed shape of the reinforcing bead has to be made so that it can actually fulfill both functions.

Apart from the aforementioned incompatibility of Wilson and Brown, further indicators for non-obviousness are the significant advantages as to safety and ease of use over Wilson, and the fact that these advantages were achieved despite the fact that this is a mass-produced product that is extremely cost sensitive.

#### The dependent claims

The dependent claims add additional non-obvious steps that are at least allowable in connection with the independent claims. Exemplarily, some remarks on selected dependent claims are provided in the following:

Neither Wilson, nor Brown teach the particular, sort of a V-shaped design of the tabs as claimed in claim 3 with a steadily widening gripping portions. These references also do not teach a straight lined opening alongside the fastening stud as claimed in claim 4, but in contrast a curved line. Wilson does not teach a foot portion as claimed in claim 5, and the depression in Wilson is clearly smaller than the outline of anything that might be compared to a closure attachment. No coating of an underside is known

from Wilson as claimed in claim 8, in contrast, a separate, discrete seal is provided, teaching away from a coating. Wilson does not have a central bead at the opener tap at its free end as claimed in claim 9, but in contrast at the other, non-free end. The completely different design of the tab in Brown does not teach any tab reinforcing bead at all. Wilson does not teach any bulge rib as claimed in claim 11 or in claim 12, but all figures, in particular figures 2 and 4 referred to by the Examiner show a substantially flat front part of the tab, and nothing in the shape of a rib running alongside. No latching projection is taught by Wilson as claimed in claim 13, in particular not in column 3 lines 50 – column 4, line 15 or figure 8-9 referred to by the Examiner. In contrast, the bottom part in Wilson is convex or bowl-shaped and has no projection that can latch. Regarding claim 15, no finger clearance is taught by Wilson, for avoiding repetition, it is referred to the above discussion with regard to claim 14, now part of claims 1 and 20. Regarding claim 17, Wilson does not teach a plateau-like elevation, but in contrast is built as a convex bowl-shape having no plateau. Regarding claim 19, there are no indications in Wilson that the tab is designed as a spring tongue. To the contrary, figures 5 and 6 show the breaking open action and twisting, but not any spring action holding closure attachment in place in its reclosed position. The free end is placed in the reclosed position over recess 38 in Wilson where no spring force can act on that free end and the design does not make it apparent or provide a suggestion where any spring action should come from. Regarding claims 18 and 21, these are non-obvious in combination with claims 1 and 20, respectively, since Westwood does not teach a mechanism with a reclosing function. Even though a simple tab that is a less complex and very flat part might well be protruded by a rim of the can, this was apparently not considered to be possible in Wilson, possibly since the bowl-shape and gripping function was thought to be necessary in Wilson in view of the narrow space between the tab and the rim in the reclosed position and therefore a protrusion of the tab above the rim of the can.

### **Conclusion**


Applicant respectfully requests that the Examiner issue a notice of



allowance for the pending claims 1-13 and 15-21. Should the Examiner require further information, the Examiner is invited to contact the Applicant's representative at the number listed below.

Respectfully submitted,

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